

STATE OF MICHIGAN
COURT OF APPEALS

GARY CRAWFORD and JUDY CRAWFORD,

Plaintiffs-Appellants,

v

TONY YOUMANS,

Defendant-Appellee.

UNPUBLISHED
December 14, 2010

No. 293307
Calhoun Circuit Court
LC No. 2008-003067-NO

Before: FORT HOOD, P.J., and JANSEN and WHITBECK, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting defendant's motion for summary disposition. We vacate and remand for proceedings consistent with this opinion.

The trial court's decision regarding a motion for summary disposition is reviewed de novo on appeal. *Kuznar v Raksha Corp*, 481 Mich 169, 175; 750 NW2d 121 (2008). The moving party has the initial burden to support its claim for summary disposition by affidavits, depositions, admissions, or other documentary evidence. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The burden then shifts to the nonmoving party to demonstrate a genuine issue of disputed fact exists for trial. *Id.* The nonmoving party may not rely on mere allegations or denials in the pleadings, but must demonstrate that a genuine issue of material fact exists. *Id.* Affidavits, depositions, and documentary evidence offered in support of, and in opposition to, a dispositive motion shall be considered only to the extent that the content or substance would be admissible as evidence. *Maiden v Rozwood*, 461 Mich 109, 120-121; 597 NW2d 817 (1999).

Review of the record reveals that plaintiff did not attach documentary evidence to his response to defendant's motion for summary disposition.¹ Additionally, the decision the trial

¹ Review of the record reveals that plaintiff purportedly cited to documentary evidence obtained during discovery in its brief. However, the documentation was not attached to the motion in compliance with the rules regarding summary disposition. Moreover, defendant asserted that plaintiff completed a standard form document regarding activities impacted. Plaintiff's

court relied on, *Kreiner v Fischer*, 471 Mich 109; 683 NW2d 611 (2004), has since been reversed by *McCormick v Carrier*, ___ Mich ___; ___ NW2d ___ (2010). *Quinto*, 451 Mich at 362. Accordingly, we vacate the trial court's decision and remand for consideration in light of *McCormick*.

Vacated and remanded. We do not retain jurisdiction.

/s/ Karen M. Fort Hood
/s/ Kathleen Jansen
/s/ William C. Whitbeck

limitations on activity must comply with the standards delineated in *McCormick*, and conclusive statements do not meet that burden. *Maiden*, 461 Mich at 120-121.